

### **REMARKS**

Claims 1, 3 and 4 have been rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. This rejection is respectfully traversed.

As the Examiner will note, claim 1 has been amended to eliminate the informalities referred to by the Examiner, and accordingly, it is believed that this rejection has been eliminated. Please note in lines 12 to 14, that vehicle speed is upper limit and turbine speed is the lower limit.

Claims 1, 3 and 4 have been rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Lee '742 in view of Usuki et al '826. This rejection is again respectfully traversed.

The present claim 1 includes a step of performing a shift control operation for shifting into the first gear if the vehicle speed is more than a predetermined value, and if the detected turbine speed is not more than a predetermined value. In the prior art, when shifting into the drive D range from the reverse R range, a target gear (first gear or second gear) of the drive range is determined based on vehicle speed (equivalent to an automatic transmission output shaft speed No), and for example, the first gear is selected when the vehicle speed is less than a certain value, and the second gear is selected when the vehicle speed is greater than the certain value. However, in the shift control method of the present claim 1, the first gear can be selected even when the vehicle speed is not less than the predetermined value. That is, the first gear is selected if the vehicle speed is more than

a predetermined value, and if the detected turbine speed is not more than a predetermined value.

The examiner urges that Lee '742 discloses a shift control method for shifting to a first speed when an idle state is detected, the output shaft speed  $N_o$  is less than 200RPM, but more than 50RPM, and the turbine speed (sic) is less than zero. However, in the shift control method of '742, the first gear is selected (in step S140) if the  $N_o$  is less than 200RPM (more concretely between 50RPM and 200RPM), and otherwise, the procedure ends. That is, the gear of the drive range is determined based on  $N_o$  (equivalent to the vehicle speed), but not based on turbine speed. The turbine speed (change rate) is used in step S160 (see column 4, lines 18-24) after selecting the first gear in order to determine whether the shift to the first gear (the shift instructed in step S140) is beginning to occur. That is, in the shift control method of '742, the turbine speed (more strictly, the change in the turbine speed  $N_t$ ) is used to determine the occurrence of the shift to the first gear, not to determine the target gear of the drive D range.

Therefore, as argued in the response to the first Office Action, the shift control method is patentable because of the features added to the claim 1 in the last response.

The amendments to claim 1 do not raise new issues; and, in fact, reduce issues should an appeal be necessary. So entry of this amendment is proper under 37 CFR 1.116.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejection and allowance of all of the claims of the present application are respectfully requested.


**Conclusion**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mr. Joseph A. Kolasch (Reg. No. 22,463) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
Joseph A. Kolasch, #22,463

JAK/ALB:bb

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000